

REMARKS

I. Summary of the Examiner's Action

A. Claim Rejections

As set forth on page 2 in paragraph 1 of the May 15 Office Action, claims 11 and 12 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

As set forth on page 3 in paragraph 3 of the May 15 Office Action, claims 1 – 3, 6, 7 and 10 – 12 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,573,844 B1 to Venolia *et al.* (hereinafter “Venolia” or “the Venolia patent”).

These rejections are respectfully disagreed with and traversed below.

II. Advisory Action of August 30, 2007

By an advisory action dated August 30, 2007, the Examiner indicated that arguments set forth in Applicant's after-final Response filed on August 15 and repeated herein overcame Examiner's rejection of claims 11 and 12 under 35 U.S.C. § 101.

III. Applicant's Response

A. Rejection of Claims 11 and 12 under 35 U.S.C. § 101

Applicant respectfully submits that claim 11 on its face is not directed to software *per se* as argued by the Examiner. Rather, claim 1 is directed to “a computer program

product comprising a computer readable memory storing a computer program executable by a control apparatus of an electronic device ...” Applicant provided an example of a computer program product at page 4, lines 2 – 4 where Applicants indicated that “Phases of this method are advantageously carried out by an appropriate computer program saved in the memory of the electronic device.”

Regarding claims of this sort, the MPEP at 2106.01 indicates that such claims are statutory in a discussion concerning the distinction between functional descriptive material and non-functional descriptive material (emphasis added):

“Descriptive material can be characterized as either ‘functional descriptive material’ or ‘nonfunctional descriptive material.’ In this context, ‘functional descriptive material’ consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of ‘data structure’ is ‘a physical or logical relationship among data elements, designed to support specific data manipulation functions.’ The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) ‘Nonfunctional descriptive material’ includes but is not limited to music, literary works, and a compilation or mere arrangement of data.

Both types of ‘descriptive material’ are nonstatutory when claimed as descriptive material per se 33 F. 3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since the use of technology permits the function of the descriptive material to be realized ...”

Applicant respectfully submits that claims 11 and 12 are directed to exactly the type of subject matter that the MPEP indicates is statutory. In other words, claims 11 and 12 are directed to functional descriptive material that is embodied in such a way so as to be executable by digital processing apparatus so that its functions may be realized.

In view of the foregoing, Applicant respectfully requests that the rejection of claims 11 and 12 be withdrawn.

B. Rejection of Claims 1 – 3, 6, 7 and 11 – 12 under 35 U.S.C. § 102(e)

Applicant reproduces claim 1 (as amended) here as a convenience to the Examiner:

1. A method comprising:
receiving a separate information unit entered with input elements of a dynamic I/O arrangement belonging to a user interface of an electronic device;
identifying after each input the entered information unit and determining based on probability which information units will likely be input next; and
emphasizing by size the input elements corresponding to the information units likely to be entered next in the user interface of the electronic device, wherein the sizes of the emphasized input elements vary on a case-specific basis depending on respective probabilities of the information units associated with the input elements.

Applicant respectfully submits that the subject matter of claims 1, 6 and 11, as amended, is neither described nor suggested by the Venolia patent.

Anticipation is a strict standard. The subject matter of each and every claim element must be either explicit or inherent in the relied upon reference. Examiner's rejection based on the Venolia patent simply does not meet this standard.

In particular, claim 1 (as amended) recites "emphasizing by size the input elements corresponding to the information units likely to be entered next in the user interface of the electronic device, *wherein the size of the emphasized input elements vary on a case-specific base depending on respective probabilities of the information units associated with the input elements.*" Applicant respectfully submits that it is not seen where Venolia either describes or suggests this subject matter. In particular, in Venolia keys corresponding to characters likely to be selected next are displayed larger than the other keys, but the size of the keys corresponding to characters likely to be entered next are uniform and do *not* vary on a *case-specific basis depending on respective probabilities of the information units associated with the input elements.*

In Venolia, the only indication of relative probability provided to a user occurs when keys corresponding to likely characters are adjacent. There, the keys are presented at the same nominal size but in a descending order base on probability. Note that this arrangement provides no information concerning the relative probability of characters

when the keys corresponding to the characters are not adjacent. The fact that *arrangement* and not *size* is used to indicate relative probability of characters when the characters likely to be entered next are adjacent confirms that Applicant is correct and the Examiner is in error.

Further, the only portion (Column 6, lines 44 – 59) of the Venolia reference relied upon by the Examiner (reproduced here) is simply not seen to either describe or suggest this aspect of Applicant's invention:

“Embodiments of the invention attempt to overcome the difficulty of typing on a soft keyboard 302 by predicting at least one key that is likely to be entered next, and displaying those keys differently on the soft keyboard 302 than the other keys on the keyboard. For example, as shown in FIG. 4, the letters a, e, o, and r have been predicted as likely to be the next key desired to be entered by the user in the key sequence ‘Now is th’. So that these keys are easier to type, they are displayed as larger in size on the soft keyboard 302. However, the other keys are not entirely obscured, just in case the prediction is incorrect, and the user desires to type a key other than the keys corresponding to the letters a, e, o, and r. Thus, insofar as predictions as to which keys are to be entered next are accurate, embodiments of the invention promote faster typing on soft keyboards, by rendering the keys on the soft keyboard likely to be entered next by the user as larger in size as compared to other keys.”

Although the keys likely to be entered next are described as being displayed larger than other keys in this portion of the Venolia patent, this portion simply neither describes nor suggests “emphasizing by size the input elements corresponding to the information units

likely to be entered next in the user interface of the electronic device, *wherein the sizes of the emphasized input elements vary on a case-specific basis depending on respective probabilities of the information units associated with the input elements.*”

Accordingly, Applicant respectfully submits that independent claims 1, 6 and 11 are allowable over the art of record. As a result, Applicant requests that the rejection of claims 1, 6 and 11 be withdrawn. Applicant also requests that the rejection of claims 2, 3, 7, 10 and 12 be withdrawn as well since these claims depend from allowable base claims.

IV. Conclusion

Applicant submits that in light of the foregoing amendments and remarks the application is now in condition for allowance. Applicant therefore respectfully requests that the outstanding rejections be withdrawn and that the case be passed to issuance.

Respectfully submitted,

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Date

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